

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0596.01 Zach Blaes x4348

HOUSE BILL 23-1081

HOUSE SPONSORSHIP

Lindstedt and Taggart,

SENATE SPONSORSHIP

Hinrichsen,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE EXPANSION OF THE TAX CREDIT FOR CONVERSION**
102 **COSTS FOR EMPLOYEE BUSINESS OWNERSHIP.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, a qualified business is allowed a tax credit in the amount of 50% of the costs to convert the qualified business to a form of employee ownership. The tax credit is capped at \$25,000 for converting a qualified business to a worker-owned cooperative or employee ownership trust, and capped at \$100,000 for converting a qualified business to an employee stock ownership plan.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

The bill:

- Increases the cap for converting a qualified business to a worker-owned cooperative or employee ownership trust from \$25,000 to \$40,000, and increases the cap for converting a qualified business to an employee stock ownership plan from \$100,000 to \$150,000;
- Expands the tax credit to include 50% of the costs of a qualified employee-owned business expanding its employee ownership by at least 20%, not to exceed \$25,000;
- Expands the tax credit to include 50% of the costs of a qualified business converting to or expanding an alternate equity structure, not to exceed \$25,000. An alternate equity structure is a form of employee ownership where an employer grants to employees an employee stock ownership plan, LLC membership, phantom stock, profit interest, profit sharing, restricted stock, stock appreciation right, stock option, or synthetic equity.
- Specifies that a qualified business or qualified employee-owned business may apply for and claim only one credit for the conversion or expansion costs per tax year.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 39-22-542, **amend**
3 (2), (3)(a), (3)(b), (4), (5)(a)(III), (6)(a), (7), (8), (10), and (11)
4 introductory portion; and **add** (3)(a.5), (3)(d), (5)(a)(V), and (5)(a)(VI) as
5 follows:

6 **39-22-542. Tax credit for conversion costs for employee**
7 **business ownership - definitions - declaration - repeal.**

8 (2) **Definitions.** As used in this section, unless the context otherwise
9 requires:

10 (a) (I) "ALTERNATE EQUITY STRUCTURE" MEANS A MECHANISM
11 UNDER WHICH AN EMPLOYER GRANTS TO EMPLOYEES A FORM OF
12 EMPLOYEE OWNERSHIP, INCLUDING BUT NOT LIMITED TO AN EMPLOYEE
13 STOCK PURCHASE PLAN, LLC MEMBERSHIP, PHANTOM STOCK, PROFIT

1 INTEREST, ■■■ RESTRICTED STOCK, STOCK APPRECIATION RIGHT, STOCK
2 OPTION, OR SYNTHETIC EQUITY.

3 (II) THE OFFICE SHALL DEVELOP GUIDELINES THAT CLARIFY THE
4 TYPES OF EMPLOYEE OWNERSHIP GRANTS THAT QUALIFY AS AN
5 ALTERNATE EQUITY STRUCTURE. THE OFFICE MAY PERIODICALLY UPDATE
6 ANY GUIDELINES ISSUED PURSUANT TO THIS SUBSECTION (2)(a)(II).

7 (a) (b) "Colorado office of economic development" or "office"
8 means the Colorado office of economic development created in section
9 24-48.5-101.

10 (b) (c) "Conversion costs" means professional services, including
11 accounting, legal, and business advisory services, as detailed in the
12 guidelines issued by the office, for the transition of a business to
13 employee ownership trust, an employee stock ownership plan, or a
14 worker-owned cooperative. "Conversion costs" include costs to audit the
15 cost certification as required in subsection (7)(b) of this section.

16 (c) (d) "Department" means the Colorado department of revenue.

17 (d) (e) "Employee ownership trust" means an indirect form of
18 employee ownership in which a trust holds a controlling stake in a
19 qualified business and benefits all employees on an equal basis.

20 (e) (f) "Employee stock ownership plan" has the same meaning as
21 set forth in section 4975 (e)(7) of the internal revenue code, as amended.

22 (g) "EXPANSION COSTS" MEANS PROFESSIONAL SERVICES,
23 INCLUDING ACCOUNTING, LEGAL, AND BUSINESS ADVISORY SERVICES, AS
24 DETAILED IN THE GUIDELINES ISSUED BY THE OFFICE, FOR THE EXPANSION
25 OF A QUALIFIED EMPLOYEE-OWNED BUSINESS'S EMPLOYEE OWNERSHIP
26 TRUST, EMPLOYEE STOCK OWNERSHIP PLAN, WORKER-OWNED
27 COOPERATIVE, OR ALTERNATE EQUITY STRUCTURE. EXPANSION COSTS

1 INCLUDE COSTS TO AUDIT THE COST CERTIFICATION AS REQUIRED IN
2 SUBSECTION (7)(b) OF THIS SECTION.

3 ~~(f)~~ (h) "Owner" means the owner of a qualified business before a
4 conversion occurs.

5 ~~(g)~~ (i) "Qualified business" means a taxpayer subject to tax under
6 this article 22, including but not limited to a C corporation, S corporation,
7 limited liability company, partnership, limited liability partnership, a sole
8 proprietorship, or other similar pass-through entity, that is not owned in
9 whole or in part by an employee ownership trust, that does not have an
10 employee stock ownership plan, ~~or~~ that is not, in whole or in part, a
11 worker-owned cooperative, OR DOES NOT HAVE AN ALTERNATE EQUITY
12 STRUCTURE, and that is approved by the office for the tax incentives in
13 this section.

14 (j) "QUALIFIED EMPLOYEE-OWNED BUSINESS" MEANS A TAXPAYER
15 THAT IS SUBJECT TO TAX UNDER THIS ARTICLE 22, INCLUDING BUT NOT
16 LIMITED TO A C CORPORATION, S CORPORATION, LIMITED LIABILITY
17 COMPANY, PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, SOLE
18 PROPRIETORSHIP, OR OTHER SIMILAR PASS-THROUGH ENTITY, THAT:

19 (I) IS OWNED IN WHOLE OR IN PART BY AN EMPLOYEE OWNERSHIP
20 TRUST;

21 (II) HAS ITS CORPORATE HEADQUARTERS LOCATED IN THIS STATE.
22 FOR PURPOSES OF THIS SUBSECTION (2)(j), "CORPORATE HEADQUARTERS"
23 MEANS THE SOLE LOCATION WITHIN A REGIONAL OR NATIONAL AREA
24 WHERE THE TAXPAYER'S STAFF MEMBERS OR EMPLOYEES ARE DOMICILED
25 AND EMPLOYED, AND WHERE THE MAJORITY OF THE TAXPAYER'S
26 FINANCIAL, PERSONNEL, LEGAL, PLANNING, OR OTHER BUSINESS
27 FUNCTIONS ARE CONDUCTED ON A REGIONAL OR NATIONAL BASIS.

1 (III) HAS AN EMPLOYEE STOCK OWNERSHIP PLAN, IS IN WHOLE OR
2 IN PART A WORKER-OWNED COOPERATIVE, OR HAS AN ALTERNATE EQUITY
3 STRUCTURE; AND

4 (IV) IS APPROVED BY THE OFFICE FOR THE TAX INCENTIVES IN THIS
5 SECTION.

6 ~~(h)~~ (k) "Worker-owned cooperative" has the same meaning as set
7 forth in section 1042 (c)(2) of the internal revenue code, as amended.

8 (3) (a) Subject to certification by the office pursuant to this
9 section, for income tax years commencing on or after January 1, 2022, but
10 prior to January 1, 2027, ~~there shall be~~ A QUALIFIED BUSINESS IS allowed
11 a credit with respect to the income taxes imposed pursuant to this article
12 22 as follows:

13 (I) Up to fifty percent of the conversion costs, not to exceed
14 ~~twenty-five~~ FORTY thousand dollars, incurred by a qualified business for
15 converting the qualified business to a worker-owned cooperative or an
16 employee ownership trust; ~~or~~

17 (II) Up to fifty percent of the conversion costs, not to exceed ~~one~~
18 ~~hundred~~ ONE HUNDRED FIFTY thousand dollars, incurred by a qualified
19 business for converting the qualified business to an employee stock
20 ownership plan; OR

21 (III) UP TO FIFTY PERCENT OF THE CONVERSION COSTS, NOT TO
22 EXCEED TWENTY-FIVE THOUSAND DOLLARS, INCURRED BY A QUALIFIED
23 BUSINESS FOR CONVERTING THE QUALIFIED BUSINESS TO AN ALTERNATE
24 EQUITY STRUCTURE.

25 (a.5) (I) SUBJECT TO CERTIFICATION BY THE OFFICE PURSUANT TO
26 THIS SECTION, FOR THE INCOME TAX YEARS COMMENCING ON OR AFTER
27 JANUARY 1, 2024, BUT PRIOR TO JANUARY 1, 2027, A QUALIFIED

1 EMPLOYEE-OWNED BUSINESS IS ALLOWED A CREDIT WITH RESPECT TO THE
2 INCOME TAXES IMPOSED PURSUANT TO THIS ARTICLE 22 OF UP TO FIFTY
3 PERCENT OF THE EXPANSION COSTS, NOT TO EXCEED TWENTY-FIVE
4 THOUSAND DOLLARS, INCURRED TO EXPAND A QUALIFIED
5 EMPLOYEE-OWNED BUSINESS'S EMPLOYEE OWNERSHIP TRUST, EMPLOYEE
6 STOCK OWNERSHIP PLAN, WORKER-OWNED COOPERATIVE, OR ALTERNATE
7 EQUITY STRUCTURE.

8 (II) TO BE ELIGIBLE FOR THE CREDIT ALLOWED PURSUANT TO THIS
9 SUBSECTION (3), A QUALIFIED EMPLOYEE-OWNED BUSINESS MUST EXPAND
10 ITS EMPLOYEE OWNERSHIP TRUST, EMPLOYEE STOCK OWNERSHIP PLAN,
11 WORKER-OWNED COOPERATIVE, OR ALTERNATE EQUITY STRUCTURE BY AN
12 INCREMENT OF AT LEAST TWENTY PERCENT OF THE TOTAL OWNERSHIP OF
13 THE ENTIRE QUALIFIED EMPLOYEE-OWNED BUSINESS.

14 (b) (I) In the case of a qualified business OR QUALIFIED
15 EMPLOYEE-OWNED BUSINESS that is a C corporation, the credit is allowed
16 to the qualified business OR THE QUALIFIED EMPLOYEE-OWNED BUSINESS.

17 (II) In the case of a qualified business OR QUALIFIED
18 EMPLOYEE-OWNED BUSINESS that is a partnership or an S corporation, the
19 credit is allowed to the owner OF THE BUSINESS.

20 (d) A QUALIFIED BUSINESS OR QUALIFIED EMPLOYEE-OWNED
21 BUSINESS MAY APPLY FOR AND CLAIM ONLY ONE TAX CREDIT FOR THE
22 CONVERSION OR EXPANSION COSTS INCURRED PER TAX YEAR.

23 (4) A business shall submit an application to the office for the
24 issuance of a credit certificate for the credit allowed in this section by the
25 deadlines established in the office's guidelines. The application must
26 include information, as set forth in the office's guidelines, regarding the
27 type of conversion OR EXPANSION the business intends to undertake, a list

1 of the expected conversion OR EXPANSION costs, and an estimated
2 amount, as calculated by the business, of the expected conversion OR
3 EXPANSION costs.

4 (5) (a) The office shall develop guidelines for the administration
5 of this section, including, but not limited to:

6 (III) Detailed guidelines regarding conversion costs; and

7 (V) DETAILED GUIDELINES REGARDING EXPANSION COSTS; AND

8 (VI) GUIDELINES AND STANDARDS FOR CERTIFYING A BUSINESS AS
9 A QUALIFIED EMPLOYEE-OWNED BUSINESS.

10 (6) (a) (I) After the office provides the written report required in
11 subsection (5)(b) of this section, a reservation of tax credits is permitted
12 for the tax credit allowed in this section. If the office determines that the
13 application filed under subsection (4) of this section is complete, the
14 office shall determine whether the business is a qualified business OR A
15 QUALIFIED EMPLOYEE-OWNED BUSINESS, review the list of the expected
16 conversion OR EXPANSION costs, and review the estimated conversion OR
17 EXPANSION costs as calculated by the business. If the office approves the
18 business as a qualified business OR A QUALIFIED EMPLOYEE-OWNED
19 BUSINESS, the list of expected conversion OR EXPANSION costs, and the
20 estimated conversion OR EXPANSION costs, the office may reserve for the
21 benefit of the qualified business, THE QUALIFIED EMPLOYEE-OWNED
22 BUSINESS, or the owner OF THE BUSINESS an allocation of a tax credit
23 subject to the limitation specified in subsection (3)(b) of this section. The
24 office shall notify the qualified business OR THE QUALIFIED
25 EMPLOYEE-OWNED BUSINESS in writing of the amount of the reservation.
26 The reservation of a tax credit does not entitle the qualified business, THE
27 QUALIFIED EMPLOYEE-OWNED BUSINESS, or the owner OF THE BUSINESS

1 to an issuance of a tax credit certificate until the qualified business OR
2 QUALIFIED EMPLOYEE-OWNED BUSINESS complies with all of the other
3 requirements specified in this section for the issuance of the tax credit
4 certificate.

5 (II) A business may apply for a staged conversion OR STAGED
6 EXPANSION. If the office receives an application for a staged conversion
7 OR STAGED EXPANSION, and the office determines the requirements set
8 forth in subsection (6)(a)(I) of this section have been met, the office shall
9 reserve tax credits for all stages of the qualified business's conversion OR
10 THE QUALIFIED EMPLOYEE-OWNED BUSINESS'S EXPANSION in the year the
11 application is filed. The office may certify the staged conversion costs OR
12 STAGED EXPANSION COSTS and issue tax credit certificates under
13 subsection (7)(b)(II) of this section when the costs are incurred.

14 (7) (a) Any qualified business OR QUALIFIED EMPLOYEE-OWNED
15 BUSINESS with respect to which the office has made a reservation of tax
16 credits under subsection (6) of this section shall incur not less than twenty
17 percent of the estimated conversion OR EXPANSION costs not later than
18 eighteen months after the date of the written notice from the office to the
19 qualified business OR QUALIFIED EMPLOYEE-OWNED BUSINESS granting the
20 reservation of tax credits. The qualified business OR QUALIFIED
21 EMPLOYEE-OWNED BUSINESS shall submit evidence of compliance with
22 the provisions of this subsection (7)(a). If the office determines that a
23 qualified business OR QUALIFIED EMPLOYEE-OWNED BUSINESS has failed
24 to comply with the requirements of this subsection (7)(a), the office may
25 rescind the written notice it previously gave the business or the owner
26 approving the reservation of tax credits and, if so, the total amount of tax
27 credits made available for the calendar year for which reservations may

1 be granted must be increased by the amount of the tax credits rescinded.
2 The office shall promptly notify any qualified business, ANY QUALIFIED
3 EMPLOYEE-OWNED BUSINESS, or the owner OF THE BUSINESS whose
4 reservation of tax credits has been rescinded and, upon receipt of the
5 notice, the qualified business OR QUALIFIED EMPLOYEE-OWNED BUSINESS
6 may submit a new application.

7 (b) (I) Following the completion of the conversion OR EXPANSION,
8 the qualified business OR THE QUALIFIED EMPLOYEE-OWNED BUSINESS
9 shall notify the office that the conversion OR EXPANSION has been
10 completed and shall provide the office with a cost certification of the
11 estimated conversion OR EXPANSION costs. The cost certification must be
12 audited by a licensed certified public accountant that is not affiliated with
13 the qualified business OR THE QUALIFIED EMPLOYEE-OWNED BUSINESS.
14 The office shall review the cost certification, and within ninety days after
15 receipt of the cost certification, the office shall certify the conversion OR
16 EXPANSION costs and issue a tax credit certificate in the amounts allowed
17 in subsection (3) of this section. The office shall promptly notify the
18 qualified business OR THE QUALIFIED EMPLOYEE-OWNED BUSINESS of any
19 disallowed conversion OR EXPANSION costs.

20 (II) If a conversion OR EXPANSION is a staged conversion OR
21 STAGED EXPANSION as set forth in subsection (6)(a)(II) of this section, and
22 the qualified business OR THE QUALIFIED EMPLOYEE-OWNED BUSINESS
23 meets the requirements in this subsection (7), the office shall issue pro
24 rata tax credit certificates to a THE qualified business, QUALIFIED
25 EMPLOYEE-OWNED BUSINESS, or ~~the~~ owner OF THE BUSINESS based on the
26 percent of the conversion OR EXPANSION completed during each tax year.

27 (c) Notwithstanding subsection (7)(b) of this section, the total

1 amount of the tax credit certificate issued to a qualified business, A
2 QUALIFIED EMPLOYEE-OWNED BUSINESS, or the owner OF THE BUSINESS
3 shall not exceed the amount of the tax credit reservation under subsection
4 (6)(a) of this section.

5 (d) If the amount of certified costs incurred by the qualified
6 business OR THE QUALIFIED EMPLOYEE-OWNED BUSINESS would result in
7 a THE qualified business, QUALIFIED EMPLOYEE-OWNED BUSINESS, or ~~the~~
8 owner OF THE BUSINESS being issued an amount of tax credits that
9 exceeds the amount of tax credits reserved for the business under
10 subsection (6)(a) of this section, the qualified business OR THE QUALIFIED
11 EMPLOYEE-OWNED BUSINESS may apply to the office for the issuance of
12 an amount of tax credits that equals the excess. The qualified business OR
13 THE QUALIFIED EMPLOYEE-OWNED BUSINESS must submit its application
14 for issuance of such excess tax credits on a form prescribed by the office.
15 Unless the office is concerned THAT the application it received under this
16 subsection (7)(d) is fraudulent, the office shall automatically approve the
17 application, which it shall issue by means of a separate certificate, subject
18 only to the availability of tax credits and the provisions concerning
19 priority provided in subsection (6)(a) of this section.

20 (8) If the credit allowed under this section exceeds the income
21 taxes due on the INCOME OF THE qualified ~~business's~~ BUSINESS, QUALIFIED
22 EMPLOYEE-OWNED BUSINESS, or ~~the owner's income~~ OWNER OF THE
23 BUSINESS, the amount of the credit not used to offset income taxes must
24 be refunded to the qualified business, QUALIFIED EMPLOYEE-OWNED
25 BUSINESS, or ~~the~~ owner OF THE BUSINESS.

26 (10) To claim the income tax credit allowed in this section, the
27 qualified business, QUALIFIED EMPLOYEE-OWNED BUSINESS, or ~~the~~ owner

1 OF THE BUSINESS shall attach a copy of the credit certificate to its state
2 income tax return. No tax credit is allowed under this section unless the
3 qualified business, QUALIFIED EMPLOYEE-OWNED BUSINESS, or ~~the~~ owner
4 OF THE BUSINESS provides the copy of the credit certificate with its filed
5 state income tax return. The amount of the credit that the qualified
6 business OR THE QUALIFIED EMPLOYEE-OWNED BUSINESS may claim under
7 this section is the amount stated on the tax credit certificate.

8 (11) The office shall, in a sufficiently timely manner to allow the
9 department to process returns claiming the income tax credit allowed in
10 this section, provide the department with an electronic report of each
11 qualified business, ~~or the~~ QUALIFIED EMPLOYEE-OWNED BUSINESS, AND
12 owner OF A BUSINESS that the office approved for the income tax credit
13 allowed in this section for the preceding calendar year that includes the
14 following information:

15 **SECTION 2. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly; except that, if a referendum petition is filed pursuant
19 to section 1 (3) of article V of the state constitution against this act or an
20 item, section, or part of this act within such period, then the act, item,
21 section, or part will not take effect unless approved by the people at the
22 general election to be held in November 2024 and, in such case, will take
23 effect on the date of the official declaration of the vote thereon by the
24 governor.

25 (2) This act applies to income tax years commencing on or after
26 January 1, 2024.